



WEST VALLEY CITY  
Unity • Pride • Progress

COMMUNITY & ECONOMIC DEVELOPMENT  
DEPARTMENT

## Variance Application to the Board of Adjustment

for property located at:

\_\_\_\_\_

**FEE: \$350.00**

Date \_\_\_\_\_

Application # \_\_\_\_\_

\* Property Owner \_\_\_\_\_ Phone \_\_\_\_\_

Mailing Address \_\_\_\_\_ Zip \_\_\_\_\_

Developer/Agent \_\_\_\_\_ Phone \_\_\_\_\_

Mailing Address \_\_\_\_\_ Zip \_\_\_\_\_

E-mail Address \_\_\_\_\_ Facsimile \_\_\_\_\_

LEGAL DESCRIPTION: Please Attach

ZONE : \_\_\_\_\_ Parcel (sidwell) # \_\_\_\_\_

A variance is the waiving of the strict requirements of the Zoning Ordinance when there are peculiar conditions inherent in the property which cause a hardship. The following conditions, in addition to the hardship criteria outlined in the Zoning Ordinance, must be evident in order for the Board of Adjustment to review your proposal.

1. Literal enforcement of the ordinance would result in unnecessary hardship.
2. Reasons must be substantial, serious, compelling and unique to the particular property.
3. It will not adversely affect the public health, safety, morals and welfare of West Valley City.

Plans required for Planning must be submitted digitally as well as on 24 inch x36 inch sized paper. Include a brief statement of the variance requested. (Please attach a separate explanation sheet.)

**\* Current property owner must sign application (see back/next page)**

12/15/2008

AFFIDAVIT

PROPERTY OWNER

STATE OF UTAH                    )  
  ) ss  
COUNTY OF SALT LAKE        )

I (we), \_\_\_\_\_, being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statements herein contained and the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
(Notary)

Residing in Salt Lake County, Utah

My commission expires: \_\_\_\_\_

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AGENT AUTHORIZATION

I (we), \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorize as my (our) agent(s) \_\_\_\_\_ to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the above agent authorization who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)

Residing in Salt Lake County, Utah

My commission expires: \_\_\_\_\_

## West Valley City Variance Application to the Board of Adjustment

The City is constantly changing and therefore requires guidance for orderly growth. The West Valley City Master Plan provides the general guidance as to how various areas of the City should develop. The Zoning Ordinance is the principal tool used to actually control growth, improve the physical environment of the City and protect property values through the regulation of land uses. However, occasionally a particular piece of property presents a situation where strict application of the zoning ordinance would cause an “unnecessary hardship”. State law allows the Board of Adjustment to grant a “variance” to alleviate this property hardship.

### BOARD OF ADJUSTMENT AUTHORITY

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Utah State law grants the Board of Adjustment its authority. Very specific guidelines are established by State law which restrict the Board’s power and authority. The following guidelines provide the framework under which the Board must consider a variance request.

1.
  - (a) Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance; and
  - (b) There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district; and
  - (c) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district; and
  - (d) The granting of the variance will not substantially affect the General Plan and will not be contrary to the public interest; and
  - (e) The spirit of the zoning ordinance is observed and substantial justice done.
2. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under this section, the Board may not find an unreasonable hardship unless the alleged hardship:
  - (a) is located on or associated with the property for which the variance is sought; and
  - (b) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
3. In determining whether or not enforcement of the zoning ordinances would cause unreasonable hardship under this section, the Board may not find unreasonable hardship if the hardship is self-imposed or economic.
4. In determining whether or not there are special circumstances attached to the property under this section, the Board may find that special circumstances exist only if the special circumstances:
  - (a) relate to the hardship complained of; and
  - (b) deprive the property of privileges granted to other properties in the same district.
5. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

6. Variances, once granted, shall run with the land.
7. Use variances may not be granted by the Board and any other body.
8. In granting a variance, the Board may impose additional requirements on the applicant that will:
  - (a) mitigate any harmful affects of the variance; or
  - (b) serve the same or similar purpose of the standard or requirement that is waived or modified.

In other words, the variance can only be granted if it will not affect the City's General Plan and strict adherence to the law would cause "unnecessary property hardships" peculiar to this property and not created by the owner. The hardship must be caused by the property itself. Personal, family or financial difficulties do not qualify. The property must have special circumstances which differ from nearby properties, and which deprive this property of privileges other nearby properties enjoy. The variance would be essential for this owner to have the same property rights the other owners have.

The Board of Adjustment does not write the ordinances and cannot break the law. Zoning ordinances are established by the City Council and are applied equally to all the citizens. A variance request must be evaluated in respect to the criteria and must meet all three guidelines noted above in order to be approved. The fact that it "does not harm" or is "not bad" is not justification for a variance. The Board cannot rewrite the ordinances for one case. Consequently, each case must be considered on its own merits and neighboring violations or previous variances do not set a precedent.

### **EXAMPLES OF VARIANCE REQUESTS THAT MAY BE JUSTIFIABLE**

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- An extra wide utility easement which interferes with the buildable area of a lot may justify encroachment into a required yard area.
- Unusual size, shape or topography of a lot may justify some variance from what would normally be required under the ordinance.

### **REQUESTS THAT ARE NOT CONSIDERED JUSTIFIABLE**

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A hardship is not a problem that you create yourself. For instance, if you your house is built in such a manner that you cannot expand the living room without encroaching into a required yard, you will be creating the situation/problem and the ordinance does not recognize that as a legitimate hardship. Likewise, the fact that it might cost you less money to add an extension in a required front yard rather than adding to the house where the addition would be permitted out-right, is not a hardship.

The important point is whether you are deprived of property rights, not desires. Financial hardship is not consid-

ered a legitimate reason for seeking a variance, nor are personal health situations.

Often you will not be aware of the fact that your proposed addition or other desired improvements do not comply with City Zoning Ordinances until you apply for a building permit. The staff of the Planning and Zoning Division will assist you in making application to the Board of Adjustment.

### APPLICATION REQUIREMENTS

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Complete the application form for the Board of Adjustment. In preparing your application be as detailed and specific as possible. Incomplete or inadequate information may result in your case being delayed or possibly denied. The Board cannot grant a variance simply because an applicant has requested it. The burden of proof rests upon you as the applicant to show that each of the above criteria are met. If you fail to support your request, the Board cannot approve your application.

- Answer the questions which are stated on the application form. You may wish to attach a separate explanation sheet to outline your request.
- You must submit a plot plan drawn to scale on a minimum size paper of 8½" x 11". It should include the following information.
  - Actual lot dimensions
  - Size and locations of an existing and proposed structures and improvements, including fences, driveways and storage sheds.
  - Distances between all improvements and property lines.
  - Building elevations, floor plans and any other pertinent information, if applicable.
  - There is a non-refundable application fee of \$350.00 to help defray the costs of advertising, conducting the public hearing and staff review.
  - A document verifying proof of ownership. The current property owner must be the applicant, but may designate a representative other than himself to act in his behalf. Proof of ownership can include a County Recorder's print out indicating ownership with corresponding parcel number, a Warranty Deed, Quit Claim Deed or tax notice.
  - Property address and legal description. A legal description can be obtained from the deed, tax notice, or County Recorder's Office.

Please remember, that the information you submit will be the basis for review by the Board of Adjustment. Be as complete as possible. If you have any questions, please ask for assistance by calling 963-3312, Planning and

Zoning.

## **PUBLIC HEARINGS**

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The Board of Adjustment meets the first Wednesday of the month and you must submit your application at least two weeks in advance of the hearing date. As part of the public notification, an 11 x 14 inch, yellow public hearing notice will be posted at the subject property approximately one week before the meeting. The public hearing by the Board of Adjustment begins at 6:00 p.m. in the City Council Chambers, West Valley City Center, 3600 Constitution Boulevard and may have a brief study session at 5:30 p.m. You or your appointed representative must be present at the public hearing at 6:00 p.m. to explain your case and answer questions. A field trip/study session to the various sites being considered by the Board may be conducted beginning at 5:30 p.m., one week prior to the hearing.

Typically, the Board will make a decision on your request the night of the public hearing. They will either approve, approve with conditions, continue, or deny the application. You will receive written notice of the decision approximately one week after the hearing date.

## **APPEALING A BOARD OF ADJUSTMENT DECISION**

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Any person wishing to appeal a decision of the Board of Adjustment must file such an appeal in the Third District Court within 30 days of the filing of the decision.

**NEXT BOARD OF ADJUSTMENT MEETING**\_\_\_\_\_

**FILING DEADLINE**

(3 weeks prior to hearing date for zone change)\_\_\_\_\_